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October 4, 2010

via electronic filing

Cynthia T. Brown
Chief of the Section of Administration, Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, D.C. 20423

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**RE: Docket No. NOR 42121, Total Petrochemicals USA, Inc. v. CSX
Transportation, Inc., et al.**

Dear Ms. Brown:

Enclosed for filing in the above-captioned case please find a "Motion for Leave to File Second Amended Complaint" and the "Second Amended Complaint" of Total Petrochemicals USA, Inc. ("TPI"). This Second Amended Complaint follows the Original Complaint filed by TPI on May 3, 2010 and the First Amended Complaint filed by TPI on July 26, 2010, and differs from the prior complaints in the following manner:

1. The following eleven defendants have been added: Carolina Piedmont Division; Georgia Woodlands Railroad, LLC; Madison Railroad; Mohawk, Adirondack & Northern Railroad Corp.; Nashville and Eastern Railroad Corp.; New Hope & Ivyland Railroad; Pioneer Valley Railroad; R.J. Corman Railroad Company (Memphis); Seminole Gulf Railway L.P.; Sequatchie Valley Railroad Company; and South Branch Valley Railroad. These short line carriers terminate the Issue Movements at 12 destinations, and according to CSXT, are line-haul carriers that must be joined as defendants in the Complaint.
2. Lane 1 of Exhibit A has been moved to Second Amended Exhibit B as Lane 116. The routing has been corrected to "GRWR-SOCIR-CSXT."
3. Lane 2 of Exhibit A: The Origin has been corrected to "Clinton, Indiana."
4. Lane 3 of Exhibit A has been moved to Second Amended Exhibit B as Lane 117. The routing has been corrected to "GRWR-SOCIR-CSXT."
5. Lane 4 of Exhibit A has been moved to Second Amended Exhibit B as Lane 118. The routing has been corrected to "GRWR-SOCIR-CSXT."
6. Lane 5 of Exhibit A has been moved to Second Amended Exhibit B as Lane 119. The routing has been corrected to "BRC-CHGO-CSXT" and the commodity has been corrected to "Polystyrene."
7. Lanes 24, 27, 40, 41, 44, 47, 50, 65, 68, 73, 85, 88, 90, 92, 95, and 107 of the First Amended Exhibit B have been removed. To avoid confusion, TPI has not renumbered

October 4, 2010

Page 2

the other lanes in Exhibit B, but instead has left the numbers of the removed lanes in the Complaint with the designation "REMOVED."

8. Lane 80 of Exhibit B: The routing has been corrected to read "BNSF-NEWOR-CSXT-GRESP-SBVR."
9. Lane 89 of Exhibit B: The Origin has been corrected to "Memphis" and the Commodity has been corrected to "Polystyrene."
10. Lane 91 of Exhibit B. The Commodity has been corrected to "Polyethylene."
11. New Lane 120 of Exhibit B has been added. This lane consists of Polypropylene from New Orleans to Conyers, GA, with routing BNSF-NEWOR-CSXT.

These changes result in the addition of eleven defendants, the deletion of 16 lanes from the First Amended Complaint, the addition of one lane, the relocation of four lanes from Exhibit A to Exhibit B, and corrections to 8 lanes.

If you have any questions, please do not hesitate to contact the undersigned.

Sincerely,



Jeffrey O. Moreno

David E. Benz

Counsel for Total Petrochemicals USA, Inc.

Enclosure

EXPEDITED CONSIDERATION REQUESTED

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

TOTAL PETROCHEMICALS USA, INC.

Complainant,

v.

Docket No. NOR-42121

**CSX TRANSPORTATION, INC; CAROLINA
PIEDMONT DIVISION; GEORGIA
WOODLANDS RAILROAD, LLC;
MADISON RAILROAD; MOHAWK,
ADIRONDACK & NORTHERN RAILROAD
CORP.; NASHVILLE AND EASTERN
RAILROAD CORP.; NEW HOPE &
IVYLAND RAILROAD; PIONEER VALLEY
RAILROAD; R.J. CORMAN RAILROAD
COMPANY (MEMPHIS); SEMINOLE
GULF RAILWAY L.P.; SEQUATCHIE
VALLEY RAILROAD COMPANY; AND
SOUTH BRANCH VALLEY RAILROAD**

Defendants.

**MOTION FOR LEAVE TO FILE
SECOND AMENDED COMPLAINT**

Pursuant to 49 C.F.R. 1104.11, Complainant, TOTAL PETROCHEMICALS USA, INC. ("TPI"), respectfully moves the Surface Transportation Board ("Board") for leave to file a Second Amended Complaint in order to add the following Defendants: Carolina Piedmont Division; Georgia Woodlands Railroad, LLC; Madison Railroad; Mohawk, Adirondack & Northern Railroad Corp.; Nashville and Eastern Railroad Corp.; New Hope & Ivyland Railroad; Pioneer Valley Railroad; R.J. Corman Railroad Company (Memphis); Seminole Gulf Railway L.P.; Sequatchie Valley Railroad Company; and South Branch Valley Railroad (collectively

EXPEDITED CONSIDERATION REQUESTED

“Short Line Defendants”). Although TPI does not believe that the Short Line Defendants are necessary parties to this proceeding, CSX Transportation, Inc. (“CSXT”) has contended otherwise. Therefore, TPI requests leave to file its Second Amended Complaint in order to resolve this question, which is important to the development and presentation of evidence in this proceeding. **TPI is requesting expedited consideration of this Motion.**

On May 3, 2010, TPI initiated this proceeding by filing a Complaint against CSX Transportation, Inc. (“CSXT”) that challenged the reasonableness of CSXT’s rates between 104 origin and destination pairs. On July 26, 2010, TPI filed a First Amended Complaint that removed some lanes and added other lanes for a total of 120 origin and destination pairs. Because the First Amended Complaint did not add any new defendants, a motion for leave to file an amended complaint was not required. 49 C.F.R. § 1111.2.

On Friday, September 10, 2010, counsel for CSXT sent a letter to counsel for TPI, which requested clarification of the rates that TPI has challenged in 22 of the Complaint lanes. (attached as Ex. 1). In all 22 lanes, a Class III rail carrier delivers TPI’s traffic to the final destination. To the extent that the rates published by CSXT and challenged by TPI include delivery by the Class III carriers, CSXT asked “whether and when TPI intends to amend its Complaint to join the participating short lines.” Ex. 1, p. 2. CSXT requested a response by no later than September 20, 2010.

On Monday, September 13, 2010, Counsel for TPI responded to CSXT’s letter. (attached as Ex. 2) TPI noted that it had posed two discovery requests to CSXT four months prior, to which CSXT had not yet responded, and which were essential to enable TPI to respond by CSXT’s deadline. These discovery requests sought information regarding the relationship

EXPEDITED CONSIDERATION REQUESTED

between CSXT and its Class III partners to determine, among other things, whether the Class III carriers are agents of CSXT.

In a September 15, 2010 letter, CSXT produced documents that it claimed were responsive to TPI's discovery requests. (attached as Ex. 3) However, because none of the documents addressed the relationship between CSXT and the Class III carriers, TPI asked CSXT either to produce such documents or affirmatively state that no such documents exist. A further dialogue occurred in an e-mail exchange between counsel for TPI and CSXT from September 15-24, 2010. (attached as Ex. 4)

Due to a lack of information from CSXT, on September 20, 2010, TPI submitted only a partial response to CSXT's September 10 letter. (attached as Ex. 5) TPI informed CSXT that it would provide a complete response upon receiving CSXT's agreements with the Class III carriers. To date, however, CSXT has neither produced such documents nor stated that they do not exist.

While waiting for CSXT to produce its Class III carrier agreements, TPI also contacted the Class III carriers identified in CSXT's September 10 letter to request that they provide Rule 11 contract rates. If so, that would render the issue raised by CSXT moot, because TPI's ability to challenge just CSXT's segment rate would not be in dispute due to the "contract exception" to the Board's "bottleneck" rule. See STB Docket Nos. 41242, 41295 and 41626, *Central Power & Light Co. et al. v. Southern Pac. Transp. Co. et al.*, (served Dec. 31, 1996), *pet. for recon.* (served April 30, 1997), *aff'd* *MidAmerican Energy Co. et al. v. STB*, 169 F. 3d 1099 (8th Cir. 1999). Every Short Line Defendant that TPI contacted stated that it could not and/or would not enter into a contract. Several Short Line Defendants alluded to the fact that, although they had no desire to be a defendant in this proceeding, they could not enter into a contract with TPI because

EXPEDITED CONSIDERATION REQUESTED

of restrictions imposed upon them by their agreements with CSXT. Such agreements, and the restrictions contained therein, are highly relevant to the status of the Short Line Defendants as agents of CSXT. Despite such references to “agreements” with CSXT, no such agreements have been identified or produced by CSXT, even though these agreements are responsive to TPI’s discovery requests to CSXT.

In order to progress this important issue to resolution, TPI seeks leave to file the Second Amended Complaint. TPI is simultaneously serving discovery upon the Short Line Defendants, which includes requests for their agreements with CSXT. If those agreements indicate that the Short Line Defendants are agents of CSXT, TPI will move to dismiss them from this proceeding. If not, they will remain in the case as properly joined defendants. This issue needs to be resolved expeditiously in order to minimize any delay in this proceeding, during which TPI is required to pay CSXT’s punitive tariff rates.

Good cause exists for the Board to grant this Motion. Through its discovery requests, TPI made an early effort to determine if the Short Line Defendants were necessary parties to this case. CSXT will not be prejudiced by granting this Motion; instead, the great burden from adding these defendants falls on TPI itself. Finally, proper adjudication of this case requires that all relevant parties be joined.

EXPEDITED CONSIDERATION REQUESTED

For the foregoing reasons, TPI respectfully requests that the Board grant this Motion for Leave to File Second Amended Complaint.

Respectfully submitted,



Jeffrey O. Moreno
David E. Benz
Thompson Hine LLP
1920 N Street, N.W., Suite 800
Washington, D.C. 20036
(202) 331-8800

October 4, 2010

Exhibit 1



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NEW YORK
PALO ALTO
SAN FRANCISCO
SHANGHAI
SINGAPORE
SYDNEY
TOKYO
WASHINGTON, D C

FOUNDED 1886

September 10, 2010

By Email and First Class Mail

Jeffrey O. Moreno
Thompson Hine LLP
1920 N Street, N.W. Suite 800
Washington, DC, 20036-1600

Re: Total Petrochemicals USA, Inc. v. CSX Transportation, Inc., STB Docket No. 42121

Dear Jeff:

We write to request clarification of Complainant Total Petrochemicals USA, Inc.'s ("TPI") Amended Complaint and of TPI's intention with respect to certain movements involving both CSXT and another rail carrier. Exhibit B to the Amended Complaint includes at least twenty-two (22) joint movements for which the segment at issue in the present rate case "originates" at a city or station on the CSXT system (that is, CSXT receives the traffic in interchange from another Class I carrier), moves over the CSXT system, is interchanged to a different rail carrier (generally a regional or "short line" rail carrier) and then is ultimately terminated at its destination by that carrier. See Exhibit to this letter (table listing 22 movements from the Amended Complaint whose route includes CSXT and another carrier).

The applicable CSXT public price tariffs (primarily CSXT-28211) include rates for an interline movement to the ultimate destination, and rates for the segment on the CSXT system only, i.e., the portion of the movement from the CSXT "origin" (i.e. the city or other location at which CSXT receives the traffic in interchange from a Class I carrier) to the interchange with the terminating "short line" carrier. See Exhibit (one table lists rates for a route to final rail destination; second table lists rates for route on CSXT to interchange with short line). Thus, for a given "origin"-destination pair listed in the Exhibit, CSXT tariff 28211 presents at least two rates that TPI might conceivably challenge. *First*, TPI could challenge the published rate for the segment on the CSXT system, but not the short line segment (i.e. the CSXT rate to the junction with the short line). In that event, any rate reasonableness determination (and any potential rate prescription or reparations) would apply only to the CSXT segment. *Second*, TPI could challenge the combined rate that covers both the CSXT segment and the short line segment to the destination. Such a challenge presumably would seek a rate reasonableness determination that would apply to the entire Eastern portion of the movement, from the CSXT interchange with a Class I railroad to the final destination by the terminating short line.

Jeffrey O. Moreno
September 10, 2010
Page 2

Presently, for at least 22 movements, the Amended Complaint appears to seek a rate reasonableness determination for a destination served by a short line, but not served by the CSXT system. If TPI wishes to seek a rate reasonableness determination for the CSXT segment *and* the terminating short line segment for those 22 movements, the short line must be included as a defendant in this case. The Board may not adjudicate the reasonableness of a rate charged by a rail carrier unless that carrier is properly before the Board as a party to the case, and is afforded a full opportunity to defend itself. If, on the other hand, TPI is seeking rate reasonableness determinations for the published rates that apply to segments on the CSXT system, but not for rates that apply to terminating short line segments, then the only necessary defendant is CSXT. In the absence of the terminating carrier, any rate reasonableness determination or prescription the Board might issue for any of those movements would necessarily be confined to the CSXT segment, which ends at the junction between the CSXT system and the terminating short line.

Given the foregoing, we request that TPI clarify whether its Amended Complaint is intended to challenge the CSXT rate that applies to the CSXT segment of those 22 movements alone, or if TPI seeks to challenge the combined rate (including the short line's rate) to the movements' ultimate destination. If it is the latter, we further request that TPI advise CSXT whether and when TPI intends to amend its Complaint to join the participating short lines. As a third alternative, TPI may wish to amend its Complaint to delete those 22 movements. Because TPI's intention concerning the 22 movements could have a significant effect on several aspects of this case, including discovery and the parties' development and presentation of SAC evidence, we ask that TPI provide a response and clarification at its earliest opportunity and in all events no later than September 20, 2010.

In sum, our question concerning the 22 movements listed in the attached Exhibit is: Does TPI intend to challenge the rate that applies to the CSXT segment only; does it intend to challenge the combined rate to the destination and add the terminating short lines to this case promptly; or does it intend to dismiss those movements from this rate case? If we do not receive a clear and definite response by September 20, we will proceed on the assumption that TPI is seeking to challenge the combined rate to destination without including the participating short lines as parties to the case, which CSXT believes is impermissible.

If you have questions or wish to discuss this letter, please contact me.

Very truly yours,


Paul A. Hemmersbaugh

Enclosure

TPI v. CSXT: Complaint Movements Involving A Second (Terminating) Carrier

OPTION A: SHORT LINE INCLUDED AS PARTY TO RATE CASE: CSXT PUBLIC PRICE LIST RATES & ROUTES TO FINAL DESTINATION (INCLUDING SHORT-LINE RATE)		OPTION B: CHALLENGE TO CSXT DIRECT RATE ONLY, SHORTLINE NOT INCLUDED CSXT DIRECT PUBLIC PRICE LIST RATES & ROUTES TO INTERCHANGE WITH SHORT LINES (NOT INCLUDING SHORT-LINE RATE)									
Line #	Commodity Description	Origin City	O ST	Destination City	D ST	Public Rate (T)	11 JCT	RR1	RR2 JCT	RR2	CSXT Rule
1	PP	MEMPHIS	TN	SOCIAL CIRCLE	GA	\$3,574	MEMPH	CSXT	BR2 JCT	RR1	MEMPH
2	PP	NEW ORLEANS	LA	WASHINGTON	GA	\$7,207	NEWOR	CSXT	SOCR	CSXT	NEWOR
3	PP	MEMPHIS	TN	OLD HICKORY	TN	\$5,156	MEMPH	CSXT	BRNET	CSXT	MEMPH
10	PP	NEW ORLEANS	LA	SARASOTA	FL	\$3,036	NEWOR	CSXT	WVH1	CSXT	NEWOR
12	PP	NEW ORLEANS	LA	CLARKSVILLE	TN	\$7,207	NEWOR	CSXT	WVH1	CSXT	NEWOR
24	PE	EFFINGHAM	IL	LAKEVILLE	NY	\$7,207	EFFHAM	CSXT	GENUT	CSXT	EFFHAM
25	PS	MEMPHIS	TN	CLARKSVILLE	TN	\$5,156	MEMPH	CSXT	GENUT	CSXT	MEMPH
28	PP	NEW ORLEANS	LA	SOCIAL CIRCLE	GA	\$3,574	NEWOR	CSXT	GUTHR	CSXT	NEWOR
34	PP	CHICAGO	IL	UTICA	NY	\$7,207	CHGO	CSXT	GUTHR	CSXT	CHGO
37	PP	NEW ORLEANS	LA	SIMPSONVILLE	SC	\$7,207	NEWOR	CSXT	UTICA	CSXT	NEWOR
40	PP	NEW ORLEANS	LA	RIVER TERMINAL	NC	\$4,983	NEWOR	CSXT	LAURN	CSXT	NEWOR
41	PP	EAST ST LOUIS	IL	SHREVEPORT	LA	\$3,574	ESTL	CSXT	LAURN	CSXT	ESTL
42	PS	EFFINGHAM	IL	SHREVEPORT	LA	\$3,574	EFFHAM	CSXT	WINCH	CSXT	EFFHAM
47	Aromatics (Sulfone)	NEW ORLEANS	LA	PANAMA CITY	FL	\$3,574	NEWOR	CSXT	WVLD	CSXT	NEWOR
52	PS	MEMPHIS	TN	JASPER	TN	\$5,156	MEMPH	CSXT	COTOL	CSXT	MEMPH
53	PP	CHICAGO	IL	UTICA	NY	\$7,207	CHGO	CSXT	BRDGL	CSXT	CHGO
61	PE MO	NEW ORLEANS	LA	WARESBORO	MA	N/A	NEWOR	CSXT	WVCO	CSXT	NEWOR
74	PP	NEW ORLEANS	LA	LEBANON	TN	\$5,156	NEWOR	CSXT	WVH1	CSXT	NEWOR
80	PP	NEW ORLEANS	LA	PETERSBURG	VA	\$3,241	NEWOR	CSXT	WVH1	CSXT	NEWOR
92	PP	CHICAGO	IL	FARMINGDALE	NY	\$3,574	CHGO	CSXT	WVH1	CSXT	CHGO
93	PE MO	CHICAGO	IL	NORTH VERNON	IN	\$4,984	CHGO	CSXT	WVH1	CSXT	CHGO
95	PE MO	NEW ORLEANS	LA	VALDOSTA	GA	\$5,505	NEWOR	CSXT	WVH1	CSXT	NEWOR
114	PP	CHICAGO	IL	WESTFIELD	MA	\$3,574	CHGO	CSXT	WVH1	CSXT	CHGO

* Applicable public rate as of 9/8/2010 NOT including fuel surcharge
 All rates published in CSXT-28211, except for line #47 which is published in CSXT-28003.
 SAW cases not participate in CSXT-28211, so there is no public rate to Waresboro, GA.

Exhibit 2

September 13, 2010

By E-Mail and First Class Mail

Paul Hemmersbaugh
Sidley Austin LLP
1501 K Street, NW
Washington, DC 20005

RE: **TOTAL Petrochemicals USA, Inc. v. CSX Transportation, Inc., STB Docket
No. 42121**

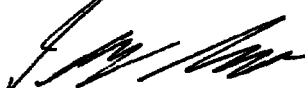
Dear Paul:

I am writing in response to your September 10, 2010 correspondence requesting clarification of TOTAL Petrochemical USA, Inc.'s ("TPI") Complaint with respect to twenty-two (22) movements involving both CSX Transportation, Inc. ("CSXT") and another rail carrier. You have requested a response at TPI's "earliest opportunity and in all events no later than September 20, 2010." (underline in original)

TPI is unable to fully and completely respond to your letter until CSXT has responded to Interrogatory No. 6 and Request for Production No. 17 of TPI's discovery requests in this proceeding, which TPI served nearly four months ago. I have reproduced the text of those discovery requests in the attached exhibit for your convenient reference. These discovery requests ask for the descriptions of the compensation and service arrangements, including copies of all agreements, between CSXT and the shortline railroads that terminate the Issue Movements. In order to meet the deadline imposed by CSXT, TPI requests that CSXT immediately respond to these discovery requests, giving priority to the connecting railroads identified in the Exhibit to your letter.

Although your letter is less than clear on this point, you seem to be stating that CSXT has published a joint through rate with the shortline railroad that terminates each of the 22 movements, in which the shortline is a line-haul carrier that receives a revenue division. This is in contrast to a "handling carrier" which receives a fee from CSXT for providing a switch service at the destination, but is not considered a line-haul carrier. Please state whether you contend that each of the railroads identified in the Exhibit to your letter provide their services as a line-haul carrier or a handling carrier.

Sincerely,



Jeffrey O. Moreno

Jeff.Moreno@ThompsonHine.com Phone 202.263.4107 Fax 202.331.8330

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INTERROGATORY NO. 6

Please describe the arrangements between CSXT and each railroad identified in part "f" of the Interrogatory No. 6 regarding all movements handled in whole or in part by CSXT and including, but not limited each railroad identified in part "f" of this Interrogatory No. 6 to:

a. Whether CSXT sets all rates, fees and surcharges, including the portion of the movement handled by each railroad identified in part "f" of this Interrogatory No. 6, and if not, identify who sets the rates, fees, and surcharges;

b. Whether the CSXT revenues reported in the traffic and revenue data provided in response to Request for Production No. 20 include or exclude the monies paid to each railroad identified in part "f" of this Interrogatory No. 6 as compensation for its portion of each movement;

c. Whether a physical interchange of traffic takes place between CSXT and each railroad identified in part "f" of this Interrogatory No. 6, and if so, identify the interchange location(s);

d. Whether each railroad identified in part "f" of this Interrogatory No. 6 provides its own locomotive power for its portion of each movement or if CSXT power is used; and

e. Whether each railroad identified in part "f" of this Interrogatory No. 6 provides its own train crew personnel for its portion of each movement or if CSXT train crew personnel are used.

f. AA, AB, ABS, ACWR, AGR, ALAB, AN, AO, AOR, AR, ASRY, ATN, AVR, BAYL, BB, BLE, BPRR, BRC, BS, BSOR, CAGY, CEIW, CFE, CFWR, CIND, CMPA, CMR, CMSL, CNUR, CNZR, CPDR, CRL, CSO, CSS, CTN, DLWR, EARY, EFRR, EIRC, ESPN, ETL, EVWR, EWR, FCEN, FCR, FCRD, FGLK, FMID, FRR, GFRR, GMRC, GNRR, GRW, GRWR, GSWR, GWRC, HIRR, HRRC, IERR, IHB, ILW, INRD, IORY, ISRR, ISW, JEFW, KBSR, KWT, LAL, LC, LIRC, LRS, MAW, MCER, MGRI, MHW, MJ, MNBR, MSE, NCIR, NCVA, NCYR, NECR, NERR, NHRR, NOPB, NOW, NWR, NYA, NYSW, ONCT, PAL, PAM, PBR, PBVR, POHC, PVRR, PW, RJCC, RJCM, RJCR, RJCW, RSR, SBVR, SCRF, SCTR, SCXF, SERCORR, SGLR, SLRS, SM, SMW, SOM, SQVR, SRNJ, ST, SWP, TBRY, TNHR, TPW, TSRR, TTIS, TTR, TYBR,

VR, VRR, VRRRC, VTR, WE, WHOE, WSOR, WSS, WTNN, WTRM, WW, WWRC, YARR and YSRR.

REQUEST FOR PRODUCTION NO. 17

Please produce copies of all documents, including agreements and/or understandings and all amendments and supplements thereto between CSXT and each railroad identified in Interrogatory No. 6, part "f", that refer or relate to the pricing and handling of all commodities, including but not limited to:

- a. Agreements or understandings pertaining to CSXT's payments to any of the identified railroads of a revenue factor, division, flat rate or other type of compensation for the railroad's portion of a movement;
- b. Locomotive run-through power or power sharing agreements or arrangements;
- c. Train crew run-through or train crew sharing agreements or arrangements;
- d. Any other agreements or arrangements pertaining to rates, surcharges, revenue sharing or operations; and
- e. Any operating timetables (including special instructions and/or operating rule books), station lists, station books, track charts and "condensed profiles" for any of the above listed railroads; and
- f. Copies of all bills or invoices from 2008 to the present (including all supporting documents and data) rendered between CSXT and any of the identified railroads pursuant to each of the agreements and/or understandings produced in response to this Request for Production No. 17.

Exhibit 3



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FOUNDED 1866

September 15, 2010

By Email and First Class Mail

Jeffrey O. Moreno
Thompson Hine LLP
1920 N Street, N.W. Suite 800
Washington, DC, 20036-1600

***Contains Information Designated HIGHLY
CONFIDENTIAL ["{ }"] Under Protective
Order***

Re: *Total Petrochemicals USA, Inc. v. CSX Transportation, Inc.* STB Docket No. 42121

Dear Jeff:

We write this morning in response to your letter of September 13, which requested further information to assist TPI in responding to CSXT's September 10 request for clarification concerning movements involving CSXT and a second rail carrier. *See* P. Hemmersbaugh Letter to J. Moreno (Sept. 10, 2010) ("September 10 Letter"). In response to your substantive question, we confirm that CSXT considers the second carrier in each of the 22 movements (identified in the Exhibit to the September 10 Letter) to be a "line-haul carrier," and not a carrier that provides switching service at the destination. Note that CSXT does not use the term "handling carrier."

Redacted

We are also producing today three categories of documents containing additional information demonstrating that the rates charged by the short lines for the movements in question are separate line haul rates, independently set by those carriers. *See* CSX-TPI-HC-DVD-037 (designated Highly Confidential pursuant to the governing Protective Order).

1. The two most recent rail transportation contracts between CSXT, TPI, and relevant short lines, including separate rates ("divisions") paid to line haul carriers that terminate or originate TPI movements. These contracts, including the short line divisions they contain, are designated **Highly Confidential** pursuant to the Protective Order issued by the STB in this case, and must be treated accordingly. We emphasize that the versions of these contracts we are producing contain highly sensitive and confidential rate and term information (including but not limited to short line rates and divisions) that must not be shared with TPI or with anyone else except eligible counsel and consultants who have executed the Highly Confidential undertaking issued by the Board in this matter. As TPI knows, the most recent contract expired on June 30, 2010. However, this shows, *inter alia*, the contractual divisions paid to the terminating carriers involved in the movements listed in the Exhibit to



Jeffrey O. Moreno
Contains Information Designated
HIGHLY CONFIDENTIAL Pursuant to Protective Order
September 15, 2010
Page 2

the September 10 Letter. This same type of separate divisions arrangement continues to apply today to the movements specified in the Exhibit (with the exception of movements handled by the GRWR, discussed above).

2. Interline service agreements. These documents set forth certain non-rate parameters of interchange arrangements between CSXT and relevant short lines, in partial response to TPI Interrogatory Number 6 and Request for Production Number 17. Again, these documents are designated **Highly Confidential** pursuant to the Protective Order governing this case.

3. CSXT-maintained, highly confidential listings of short line carriers' rates included in CSXT public price lists at issue in this case, including CSXT 28211, CSXT 29111, and CSXT 28003. That spreadsheet listing, designated **Highly Confidential** under the governing Protective Order (and may be shared only with persons who have signed the Highly Confidential undertaking), includes a column indicating the date that each short line public rate was most recently changed, and when it is next scheduled to change. For movements in which the participating short line provides line haul carrier service, the line haul rate set by the short line is included in the combined (CSXT and short line) rate published in the relevant CSXT public price lists, available on the "ShipCSX" web site. The Highly Confidential line haul rates established by the participating short lines are not expressly specified in the CSXT public price lists. The short lines' line haul rates are independently set by the participating short line carriers, which may change their rates for the relevant segments upon providing 90 days' notice.

We believe this letter, along with the documents we are producing today, should provide the supporting information TPI has requested in order to facilitate its prompt response to CSXT's request for clarification set forth in our September 10 Letter.

Also enclosed with this letter are additional documents responsive to TPI discovery requests. On the disk labeled CSX-TPI-HC-DVD-037 are additional documents responsive to TPI Interrogatory number 6 and Requests for Production Nos. 15, 17, 29, 79, 119, and 153. These documents, and the information they contain, are hereby designated **Highly Confidential** pursuant to the Protective Order entered by the STB in this case, and should be treated accordingly. A second disk, bearing document identification label CSX-TPI-C-DVD-038, contains documents responsive to TPI RFP Nos. 12 and 91. Those documents and the information they contain, are hereby designated **Confidential** pursuant to the Protective Order entered by the STB in this case, and should be treated accordingly. If you have questions or wish to discuss this letter, please contact me.

Very truly yours,

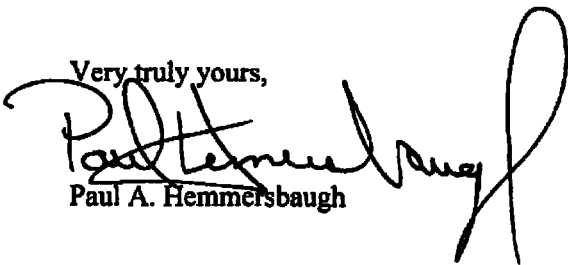

Paul A. Hemmersbaugh

Exhibit 4

Moreno, Jeffrey

From: Moreno, Jeffrey
Sent: Friday, September 24, 2010 10:35 AM
To: 'Hemmersbaugh, Paul A.'
Cc: Moates, G. Paul
Subject: FW: TPI v. CSXT Letter

Follow Up Flag: Follow up
Flag Status: Purple

Paul,

The basic question that TPI is trying to resolve is whether these short lines are line-haul carriers or agents of CSXT. The documents produced by CSXT to date show the rate received by each short line, but they do not reveal the fundamental character of the relationship between the two carriers.

In your latest e-mail, you "confirm that CSXT has not, since the expiration of its contract with TPI on June 30, entered new separate written contracts with each relevant short line setting forth new rates and terms for TPI traffic moved under applicable common carrier rates (public prices)." You further state that "CSXT does not maintain separate formal written 'Junction Settlement Agreements' for these particular lanes specifying how -- mechanically -- CSXT pays a participating short line its rate or division...." These statements reflect a misunderstanding of my request.

First, TPI has not limited its request to post June 30, 2010. Second, TPI has not limited its request to documents titled "Junction Settlement Agreements" or to agreements that establish the rates of the short lines. TPI seeks any current agreement, in whatever form it may take, and whenever it was entered into that governs the relationship between CSXT and each short line. This may include, for example, the original agreement that created the short line. This example, however, is not intended to limit TPI's request.

TPI has contacted individual short lines regarding their willingness and ability to establish Rule 11 rates for their portions of the issue movements. At least one has stated that under its "contract with CSX," its ability to enter into a Rule 11 arrangement with TPI is restricted. Yet no such "contract" has been produced by CSXT. Other short lines have alluded to the existence of similar arrangements with CSXT. TPI is seeking these documents, in whatever form they may exist, as part of its request.

I am happy to discuss this with you, if you still do not understand TPI's request. Before TPI can complete its response to your Sept. 10th letter, we need to review the requested documents, or we need CSXT to definitively declare that no such documents exist.

Best Regards,

Jeffrey O. Moreno
Thompson Hine LLP
1920 N Street, N.W.
Washington, DC 20036
202.263.4107 (Direct Line)
202.331.8330 (Fax)
202.615.2494 (Mobile)
Jeff.Moreno@ThompsonHine.com

-----Original Message-----

From: Hemmersbaugh, Paul A. [mailto:phemmersbaugh@sidley.com]
Sent: Wednesday, September 22, 2010 8:00 PM
To: Moreno, Jeffrey
Cc: Moates, G. Paul
Subject: RE: TPI v. CSXT Letter

Jeff,

We may be miscommunicating. In addition to other factors, I think clear communication may be impeded here by the use of the same or similar terms to convey different (and sometimes inconsistent) meanings. I will attempt to clarify and respond to your question about additional formal written junction settlement agreements.

1. First, you sent a letter to me on September 20, I did not send one to you. I assume your email is referring to the letter I sent to you on September 10, to which your September 20 letter provided a partial response. Second, as I explained in my September 15 letter and my September 16 email response (latter reproduced below), the documents we produced on September 15 included: (i) CSXT's two most recent contracts with shortlines for TPI traffic, whose exhibits specify the rates/divisions established by, and paid to, certain shortlines for their linehaul movement of that traffic; and (ii) spreadsheets listing shortline rates/divisions for the public common carrier prices that have applied to TPI traffic since July 1, 2010 (following the expiration of the parties' transportation contract). The shortlines that provide linehaul (as opposed to switching) services establish their rates for their segment of the movements covered by the CSXT public prices. Those participating line haul short lines either: (a) communicate their component rates to CSXT (usually via email) for incorporation into the CSXT public price list (available on the ShipCSX web site), or (b) enter their rates (and any changes) to the ShipCSX website themselves. The additional spreadsheets we produced on September 15 contain CSXT's records of the relevant rates established by the participating shortlines, and when they were established.

Stated differently, CSXT already has produced "agreements pertaining to its payments of a revenue factor, division . . . or other compensation to the short line carriers identified in" my September 10 letter, and has explained how those factors are established by the short lines under the challenged public prices.

None of the foregoing is new information. I have attempted to state it slightly differently, however, in the hope that the restatement may eliminate any remaining confusion.

2. The following is "new" information responding to your further inquiries, which I have learned since last Friday (9/17). I confirm that CSXT has not, since the expiration of its contract with TPI on June 30, entered new separate written contracts with each relevant short line setting forth new rates and terms for TPI traffic moved under applicable common carrier rates (public prices). Since July 1, TPI traffic has moved over the CSXT system and the lines of its short line partners pursuant to the public prices set forth in relevant public price listings (which incorporate the rates independently established by relevant short lines for the segments for which they provide line haul service, as described in paragraph 1 above).

In response to your request, we have further determined that CSXT does not maintain separate formal written "Junction Settlement Agreements" for these particular lanes specifying how -- mechanically -- CSXT pays a participating short line its rate or division for the segment of the line haul transportation provided by that short line. I reiterate, however, that such a separate written agreement setting forth the mechanics of payment of a short line's rate/division is not relevant to the question of whether TPI is challenging the rates for the CSXT segment of the movements alone or the combined rates for the joint line movements, including the terminating short line segment.

Although we do not believe any additional agreements exist that establish current, binding rate arrangements between CSXT and the short lines for the movements in question, CSXT is presently searching its archived files to determine if there may exist any "freight operating agreements, rail line purchase or lease agreements, or interline settlement agreements" (in the terms of your 9/20 letter) setting forth applicable rates for those movements. We will promptly advise you if CSXT identifies any such documents.

3. In sum, for the thirteen movements still remaining in question after your September 20 letter, the participating short lines are junction settlement carriers -- parties to the CSXT-short line joint rates to the ultimate destination (not "switching carriers") who establish their own component rates and are

paid those divisions for the line haul service they provide for their segments of those movements.

The documents and explanations CSXT has provided are more than sufficient to "definitively" establish the status of those shortlines as "line haul carriers." If TPI's position is that it has some undisclosed reason to believe that -- contrary to CSXT's multiple express representations and production of supporting documents -- the short lines in question are not providing line haul service with respect to the movements in question, or that the representations CSXT has made concerning the services provided by those carriers (or the divisions paid to them for those services) are incorrect, please promptly advise us of that position and provide any information it may have to support such a position. Otherwise, please respond to CSXT's targeted inquiry and request for clarification concerning the remaining 13 movements (lanes 8, 10, 12, 25, 34, 37, 52, 61, 66, 74, 93, and 114 from Exhibit B to the Amended Complaint). If TPI intends to challenge the combined joint rates (including the short line segments) to destination, it must include the participating short lines as parties.

If you believe it would be helpful to discuss this on the telephone, please call me.

Regards,

Paul

Paul Hemmersbaugh
Sidley Austin, LLP
(202) 736-8538
phemmersbaugh@sidley.com

-----Original Message-----

From: Moreno, Jeffrey [mailto:Jeff.Moreno@thompsonhine.com]
Sent: Wednesday, September 22, 2010 1:10 PM
To: Hemmersbaugh, Paul A.
Cc: Moates, G. Paul
Subject: RE: TPI v. CSXT Letter

Paul,

I am writing in follow-up to your e-mail message below to determine whether CSXT possesses, and will be producing, agreements pertaining to its payments of a revenue factor, division, flat rate or other compensation to the short line carriers identified in your Sept. 20, 2010 letter to me. TPI shares CSXT's desire to definitively resolve the status of these short lines as either line-haul carriers or agents of CSXT.

Best Regards,

Jeffrey O. Moreno
Thompson Hine LLP
1920 N Street, N.W.
Washington, DC 20036
202.263.4107 (Direct Line)
202.331.8330 (Fax)
202.615.2494 (Mobile)
Jeff.Moreno@ThompsonHine.com

-----Original Message-----

From: Hemmersbaugh, Paul A. [mailto:phemmersbaugh@sidley.com]
Sent: Friday, September 17, 2010 1:25 PM
To: Moreno, Jeffrey
Cc: Moates, G. Paul
Subject: RE: TPI v. CSXT Letter

Jeff,

FYI, I have made inquiry of CSX as to whether there may exist -- separate from the agreements we have produced -- formal written agreements specifically setting forth the settlement/payment arrangements between CSXT and the relevant short lines with respect to

the TPI movements listed in my September 10 letter. I will let you know what I learn. However, I do not think that a determination of whether there exists such a formal written contract memorializing the mechanics of payment to those short lines for their provision of linehaul services is necessary to allow TPI to respond to CSXT's September 10 inquiry and request for clarification.

Paul Hemmersbaugh
Sidley Austin, LLP
(202) 736-8538
phemmersbaugh@sidley.com

-----Original Message-----

From: Moreno, Jeffrey [mailto:Jeff.Moreno@thompsonhine.com]
Sent: Thursday, September 16, 2010 10:12 PM
To: Hemmersbaugh, Paul A.; Benz, David
Cc: Moates, G. Paul; Warren, Matthew J.
Subject: RE: TPI v. CSXT Letter

Paul,
My understanding (which could be wrong in this case) is that junction settlement arrangements would be memorialized in a written agreement between the Class I and shortline. If there are such agreements in this case, I am asking you to produce them. If not, I am asking you to confirm that fact.

Jeffrey O. Moreno
Thompson Hine LLP
1920 N Street, NW
Washington, DC 20036
202.331.8800 (Main)
202.263.4107 (Direct)
202.615.2494 (Mobile)
202.331.8330 (Fax)
Jeff.Moreno@ThompsonHine.com

From: Hemmersbaugh, Paul A. [phemmersbaugh@sidley.com]
Sent: Thursday, September 16, 2010 4:56 PM
To: Moreno, Jeffrey; Benz, David
Cc: Moates, G. Paul; Warren, Matthew J.
Subject: RE: TPI v. CSXT Letter

Jeff,

I do not entirely follow your question. Two of the document sets we produced yesterday were copies of written transportation contracts (amendments to CSXT 81763) between CSXT, TPI, and a number of short lines, accompanied by price and term sheets (in Excel workbooks) that set forth, among other things, applicable short line rates and divisions for TPI traffic. I am reasonably confident that CSXT has not entered a new contract with each of those shortlines regarding TPI traffic following the expiration of the contract between TPI and CSXT at the end of June. If you wish, I will ask CSXT to confirm this.

As my letter stated yesterday, the service provided by the short lines for the 22 movements identified in the Exhibit to last Friday's (9/10) letter is line haul service (putting aside the GRWR moves, which are subject to a separate contract with TPI alone), not switching service. And, the short lines' components of the public rates for those 22 "joint" movements are set by the short lines independently. In fact, each of those short lines has access to the rates for its own segments on the "ShipCSX" web site, for purposes of changing their own rates.

For common carrier "public price" traffic (the type of rates TPI challenges in STB Dkt. 42121), the short line carriers set their own rates for the 22 movements listed in the Exhibit. They communicate those rates to CSXT, which then generates a combined rate for the full (generally gateway

"origin" to destination) joint movement, and a CSXT-direct ("local") rate to the interchange with the relevant shortline. Where the customer selects the combined rate (including the terminating shortline) to destination, CSXT bills the customer (here TPI) and collects payment, and CSXT distributes to the short line its revenue division. That, in short, is the "rate setting [, billing, and payment] arrangement" between CSXT and participating short lines for the 22 movements in question (again, with the exception of the movements involving the GRWR).

I have shared your inquiry with CSXT, and they advise me that CSXT does not use "Junction Settlement Agreements," at least not by that name. I think you have the information you need to answer our September 10 inquiry and request for clarification. However, if you can further explain what you mean by the term "Junction Settlement Agreements" in the present context, and what additional information you think that sort of agreement would provide that is relevant to your response to CSXT's request, we would be willing to make further inquiries of CSXT concerning such agreements.

Paul Hemmersbaugh

Sidley Austin, LLP

(202) 736-8538

phemmersbaugh@sidley.com

-----Original Message-----

From: Moreno, Jeffrey [mailto:Jeff.Moreno@thompsonhine.com]
Sent: Wednesday, September 15, 2010 11:29 PM
To: Hemmersbaugh, Paul A.; Benz, David
Cc: Moates, G. Paul; Warren, Matthew J.
Subject: RE: TPI v. CSXT Letter

Paul,

In the documents that CSXT produced today, I did not see any written agreements between CSXT and any shortline RR establishing a Junction Settlement Agreement. Does that mean there is no written agreement between CSXT and any of the shortline carriers? If there are such agreements, they are responsive to TPI's discovery and I would need to see them before I respond to your Sept. 10th letter. Please confirm that either no such documents exist that establish the rate setting arrangement between CSXT and the shortlines, or produce those documents.

Jeffrey O. Moreno

Thompson Hine LLP

1920 N Street, NW

Washington, DC 20036

202.331.8800 (Main)

202.263.4107 (Direct)

202.615.2494 (Mobile)

202.331.8330 (Fax)

Jeff.Moreno@ThompsonHine.com

From: Hemmersbaugh, Paul A. [phemmersbaugh@sidley.com]

Sent: Wednesday, September 15, 2010 11:25 AM

To: Moreno, Jeffrey; Benz, David

Cc: Moates, G. Paul; Warren, Matthew J.

Subject: TPI v. CSXT Letter

Jeff and David,

Attached please find a letter responding to your September 13 request for further information, and describing further documents we are producing today. The original of the letter, and the disks containing documents will be delivered by messenger.

IRS Circular 230 Disclosure: To comply with certain U.S. Treasury regulations, we inform you

that, unless expressly stated otherwise, any U.S. federal tax advice contained in this communication, including attachments, was not intended or written to be used, and cannot be

used, by any taxpayer for the purpose of avoiding any penalties that may be imposed on such

taxpayer by the Internal Revenue Service. In addition, if any such tax advice is used or referred

to by other parties in promoting, marketing or recommending any partnership or other entity,

investment plan or arrangement, then (i) the advice should be construed as written in connection

with the promotion or marketing by others of the transaction(s) or matter(s) addressed in this

communication and (ii) the taxpayer should seek advice based on the taxpayer's particular circumstances from an independent tax advisor.

This e-mail is sent by a law firm and may contain information that is privileged or confidential.

If you are not the intended recipient, please delete the e-mail and any attachments and notify us

immediately.

Exhibit 5

September 20, 2010

By E-Mail and First Class Mail

Paul Hemmersbaugh
Sidley Austin LLP
1501 K Street, NW
Washington, DC 20005

RE: **TOTAL Petrochemicals USA, Inc. v. CSX Transportation, Inc., STB Docket No. 42121**

Dear Paul:

I am writing in response to your September 10, 2010 correspondence requesting clarification of TOTAL Petrochemical USA, Inc.'s ("TPI") Complaint with respect to twenty-two (22) movements involving both CSX Transportation, Inc. ("CSXT") and another rail carrier. Specifically, you have identified two potentially applicable tariff rates for each of the 22 movements. The "Option A" rates cover both CSXT's portion of the line-haul transportation and the delivering short line railroad's portion. The "Option B" rates cover just CSXT's portion. You have asked TPI to clarify whether it is challenging the Option A or the Option B rate for each movement. Furthermore, if TPI is challenging the Option A rate, you have asked whether and when TPI intends to amend its Complaint to join the participating short lines as co-defendants.

As noted in our exchange of letters and e-mails last week, TPI is not in a position to fully respond to your letter until CSXT has produced any and all agreements pertaining to CSXT payments of a revenue factor, division, flat rate or other compensation ("Agreements")¹ to short line railroads. Those agreements are needed for TPI to determine whether the short line railroads are line-haul carriers. The information that CSXT has provided in response to my September 13, 2010 letter is not sufficient to make that assessment.

Based upon the information that is presently available to it, TPI provides the following clarifications in response to your September 10th letter:

Lane #	Origin	Destination	Shortline	TPI Action
1	Memphis, TN	Social Circle, GA	GRWR	TPI is challenging the Option B rate.
8	New Orleans, LA	Washington, GA	GWRC	Undetermined
10	Memphis, TN	Old Hickory, TN	NERR	Undetermined
12	New Orleans, LA	Sarasota, FL	SGLR	Undetermined

¹ Agreements may include, for example, any freight operating agreements, rail line purchase or lease agreements or interline settlement agreements.

Jeff.Moreno@ThompsonHine.com Phone 202.263.4107 Fax 202.331.8330

226575 3

THOMPSON HINE LLP
ATTORNEYS AT LAW

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Phone 202.331.8800
Fax 202.331.8330

September 20, 2010

Page 2

24	Effingham, IL	Lakeville, NY	LAL	TPI will remove this lane from the Complaint.
25	Memphis, TN	Clarksville, TN	RJCM	Undetermined
28	New Orleans, LA	Social Circle, GA	GRWR	TPI is challenging the Option B rate.
34	Chicago, IL	Utica, NY	MHWA	Undetermined
37	New Orleans, LA	Simpsonville, NC	CPDR	Undetermined
40	New Orleans, LA	River Terminal, NC	AR	TPI will remove this lane from the Complaint.
41	East St. Louis, IL	Shelbyville, KY	RJCC	TPI will remove this lane from the Complaint.
42	Effingham, IL	Warminster, PA	NHRR	TPI will remove this lane from the Complaint.
47	New Orleans, LA	Panama City, FL	BAYL	TPI will remove this lane from the Complaint.
52	Memphis, TN	Jasper, TN	SQVR	Undetermined
61	Chicago, IL	Utica, NY	MHWA	Undetermined
66	New Orleans, LA	Wareboro, GA	SMW	Undetermined
74	Memphis, TN	Lebanon, TN	NERR	Undetermined
80	New Orleans, LA	Petersburg, WV	SBVR	Undetermined
92	Chicago, IL	Farmingdale, NY	NYA	TPI will remove this lane from the Complaint.
93	Chicago, IL	North Vernon, IN	CMPA	Undetermined
95	New Orleans, LA	Valdosta, GA	VR	TPI will remove this lane from the Complaint.
114	Chicago, IL	Westfield, MA	PVRR	Undetermined

For all lanes in the above chart where TPI's action is listed as "Undetermined," TPI awaits CSXT's production of its Agreements with the short line railroads. TPI will file an amended complaint with the above modifications, and any other modifications that may be warranted by CSXT's Agreements with the short line railroads, once TPI has received and reviewed those Agreements.

Sincerely,



Jeffrey O. Moreno

EXPEDITED CONSIDERATION REQUESTED

CERTIFICATE OF SERVICE

I hereby certify that this 4th day of October 2010, I served a copy of the foregoing Motion for Leave to File Second Amended Complaint upon Defendants in the following manner and at the addresses below:

Via hand-delivery to:

G. Paul Moates
Sidley Austin LLP
1501 K Street, NW
Washington, D.C. 20005
Counsel for CSXT

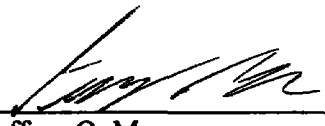
Via overnight express delivery to:

Lamont Jones, General Manager Carolina Piedmont Division 268 E. Main Street Laurens, SC 29360	Cathy S. Hale, Chief Executive Officer Madison Railroad City of Madison Port Authority 1121 W. JPG Woodfill Road #216 Madison, IN 47250
Jeff Collins, General Manager Mohawk, Adirondack & Northern Railroad Corp. 1 Mill Street, Suite 101 Batavia, NY 14020	William J. Drunsic, President Nashville and Eastern Railroad Corp. 514 Knoxville Avenue Lebanon, TN 37087
Bernard M. Reagan, Senior Vice President Seminole Gulf Railway L.P. 900 W.C. Owens Avenue Clewiston, FL 33440	Lucinda K. Butler, Director South Branch Valley Railroad 120 Water Plant Drive Moorefield, WV 26836
G.R. Abernathy, President Sequatchie Valley Railroad Company 120 Soulard Square Bridgeport, AL 35740	Paul G. Nichini, President New Hope & Ivyland Railroad 32 West Bridge Street New Hope, PA 18938

EXPEDITED CONSIDERATION REQUESTED

Via facsimile and U.S. first-class mail to:

Joe Martin, Division Manager R.J. Corman Railroad Company (Memphis) P.O. Box 337 145 East 1st Street Guthrie, KY 42234 fax 270.483.9009	Michael L. Rennie, General Manager Pioneer Valley Railroad P.O. Box 995 Westfield, MA 01086 fax 413.568.3331
Thomas Burden, General Manager Georgia Woodlands Railroad, LLC 210 Depot Street P.O. Box 549 Washington, GA 30673 fax 706.678.2341	



Jeffrey O. Moreno

TOTAL PETROCHEMICALS USA, INC.

Complainant,

v.

**CSX TRANSPORTATION, INC; CAROLINA
PIEDMONT DIVISION; GEORGIA
WOODLANDS RAILROAD, LLC;
MADISON RAILROAD; MOHAWK,
ADIRONDACK & NORTHERN RAILROAD
CORP.; NASHVILLE AND EASTERN
RAILROAD CORP.; NEW HOPE &
IVYLAND RAILROAD; PIONEER VALLEY
RAILROAD; R.J. CORMAN RAILROAD
COMPANY (MEMPHIS); SEMINOLE
GULF RAILWAY L.P.; SEQUATCHIE
VALLEY RAILROAD COMPANY; AND
SOUTH BRANCH VALLEY RAILROAD**

Defendants.

Docket No. NOR-42121

COMES NOW Complainant, TOTAL PETROCHEMICALS USA, INC. ("TPI"), 1201 Louisiana Street, Suite 1800, Houston, TX 77002, pursuant to 49 CFR § 1111.2(a), and files this Second Amended Complaint against the following Defendants: CSX Transportation, Inc; Carolina Piedmont Division; Georgia Woodlands Railroad, LLC; Madison Railroad; Mohawk, Adirondack & Northern Railroad Corp.; Nashville and Eastern Railroad Corp.; New Hope & Ivyland Railroad; Pioneer Valley Railroad; R.J. Corman Railroad Company (Memphis); Seminole Gulf Railway L.P.; Sequatchie Valley Railroad Company; and South Branch Valley Railroad.

TPI brings this Second Amended Complaint pursuant to 49 USC §§ 10701, 10704, 10707, 11701 and 11704, and 49 CFR Part 1111. TPI requests that the Surface Transportation Board (“STB” or “Board”) prescribe reasonable rates and service terms for Defendants’ transportation of the movements set forth in Exhibits A and B of this Second Amended Complaint. TPI asks the Board to award damages, plus interest, to the extent that TPI has paid or will pay common carrier rates in excess of a reasonable maximum rate for such transportation, beginning on July 1, 2010. TPI asks this Board to determine the reasonableness of Defendants’ rates using the constrained market pricing principles and procedures adopted in *Coal Rate Guidelines—Nationwide*, Ex Parte No. 347 (Sub-No. 1), 1 I.C.C. 2d 520 (1985), as further refined and applied in subsequent decisions issued by the Interstate Commerce Commission and the Board.

In support of this Second Amended Complaint, TPI states as follows:

The Parties

1. TPI is a corporation organized under the laws of the State of Delaware, with its principal place of business in Houston, Texas. TPI, which is part of the chemical branch of Total S.A., is a producer of polypropylene, polyethylene, styrenics (including polystyrene), base chemicals, and transportation fuels at facilities in Texas and Louisiana. TPI is a major user of rail service to transport its products to customers throughout the continental United States, Canada and Mexico.

2. Each defendant is a common and contract carrier by railroad that engages in the transportation of property in interstate and intrastate commerce. Each defendant is also subject to the Interstate Commerce Commission Termination Act of 1995 (49 USC §§ 10101 *et seq.*) and to the jurisdiction of the Board.

3. Defendant CSX Transportation, Inc. ("CSXT") has its headquarters at 500 Water Street, Jacksonville, Florida 32202.
4. Defendant Carolina Piedmont Division has a mailing address of 268 E. Main Street, Laurens, South Carolina 29360.
5. Defendant Georgia Woodlands Railroad, LLC has a mailing address of 210 Depot Street, P.O. Box 549, Washington, Georgia 30673.
6. Defendant Madison Railroad has a mailing address of City of Madison Port Authority, 1121 W. JPG Woodfill Road #216, Madison, Indiana 47250.
7. Defendant Mohawk, Adirondack & Northern Railroad Corp. has a mailing address of 1 Mill Street, Suite 101, Batavia, New York 14020.
8. Defendant Nashville and Eastern Railroad Corp. has a mailing address of 514 Knoxville Avenue, Lebanon, Tennessee 37087.
9. Defendant New Hope & Ivyland Railroad has a mailing address of 32 West Bridge Street, New Hope, Pennsylvania 18938.
10. Defendant Pioneer Valley Railroad has a mailing address of P.O. Box 995, Westfield, Massachusetts 01086.
11. Defendant R.J. Corman Railroad Company (Memphis) has a mailing address of P.O. Box 337, 145 East 1st Street, Guthrie, Kentucky 42234.
12. Defendant Seminole Gulf Railway L.P. has a mailing address of 900 W.C. Owens Avenue, Clewiston, Florida 33440.
13. Defendant Sequatchie Valley Railroad Company has a mailing address of P.O. Box 296, Bell Buckle, Tennessee 37020.

14. Defendant South Branch Valley Railroad has a mailing address of 120 Water Plant Drive, Moorefield, West Virginia 26836.

Description of the Issue Movements

15. In this Second Amended Complaint, TPI challenges the reasonableness of Defendants' rates for the movement of polypropylene, polystyrene, polyethylene, styrene and base chemicals between the origin and destination pairs set forth in Exhibits A and B.

16. CSXT transports the commodities between the points identified in Exhibit A in single line service.

17. Defendants transport the commodities between the points identified in Exhibit B in joint line service. CSXT has published AAR Accounting Rule 11 rates for these movements on behalf of itself and the other Defendants.

The Challenged Rates

18. In 2007, CSXT and TPI entered into a contract that, over the two-year term of the agreement, increased rates by 38% (volume weighted). As a consequence of CSXT's rate increases, TPI's ability to compete in markets the CSXT serves was impaired.

19. In 2009, TPI and CSXT entered into negotiations for a new contract. CSXT demanded rate increases of another 8.3% (volume weighted). In some lanes, the contract rates offered by CSXT represented increases of more than 100% compared to the expiring contract rates and R/VC ratios over 800%. In total, CSXT's 2009 contract offer represented a 49% (volume weighted) increase in its rates to TPI, excluding fuel surcharges, since 2007. CSXT insisted that these were "market" rates for rail transportation of TPI's commodities and rejected TPI's counter-proposals.

20. Due to a lack of options and the impending contract expiration, TPI reluctantly agreed to a new contract at the rates offered by CSXT for a term of nine months that expired on June 30, 2010. During that time, TPI concluded that CSXT's rates are far above reasonable levels.

21. On March 24, 2010, TPI initiated contract renewal negotiations with CSXT by proposing new contract rates that would become effective upon expiration of the then-current contract on June 30, 2010. Having concluded that CSXT's then-current contract rates were unreasonable, TPI proposed rate reductions. CSXT informed TPI that it could not agree to those rates and repeated its assertion during the 2009 contract negotiations that CSXT's current rates are competitive with the "market." TPI agreed to CSXT's request for additional time to present a counter-proposal, despite substantial doubts that CSXT's counter-proposal would be acceptable. On April 30, 2010, CSXT submitted a counter-proposal to TPI that would impose further rate increases upon CSXT's already unreasonably high current contract rates.

22. Because TPI and CSXT are unable to agree upon new contract rates, TPI must pay Defendants' public tariff rates, which are the rates identified in Exhibits A and B, effective July 1, 2010. These rates produce R/VC ratios over 1100% on four lanes; over 500% on twenty-seven lanes; and over 400% on eighty-one lanes. All but two lanes in Exhibits A and B produce R/VC ratios greater than 300%. TPI challenges these rates as unreasonable.

Jurisdictional Allegations

23. Defendants possess market dominance over the movements in Exhibits A and B. Therefore, pursuant to 49 USC § 10707, the Board has jurisdiction over the rates and services provided by Defendants and challenged by TPI as unreasonable.

24. The rates charged by Defendants and challenged by TPI for each of the movements in Exhibits A and B exceed 180 percent of the variable cost for the service requested by TPI, as determined in accordance with 49 USC § 10707(d)(1).

25. There is a lack of effective competition from other rail carriers for each of the movements in Exhibits A and B because CSXT or another Defendant is the only rail carrier that provides service at either the origin or the destination. There is a lack of effective competition from non-rail modes for each of the movements in Exhibits A and B.

Requested Relief

26. Defendants' common carrier rates for handling the movements in Exhibits A and B are unreasonable and violate 49 USC §§ 10701(d)(1) and 10702, which require Defendants to establish reasonable rates. The Board should order Defendants to cease these violations and it should prescribe maximum reasonable rates pursuant to 49 USC § 10704(a)(1).

27. The Board should award reparations to TPI, as provided under 49 USC § 11704(b). The reparations should compensate TPI for any and all amounts paid in excess of the reasonable rates prescribed by the Board pursuant to this proceeding, plus interest.

28. The Board should prescribe a maximum reasonable rate and award reparations for a combined period of ten years, beginning July 1, 2010.

29. This Second Amended Complaint includes any and all adjustments to the challenged rates, including adjustments to the applicable fuel surcharges, and any new rates established by Defendants for the services described herein.

WHEREFORE, TOTAL PETROCHEMICALS USA, INC. prays that the Board:

- (1) require Defendants to answer the charges alleged herein;

(2) assign this Second Amended Complaint for hearing under 49 CFR Part 1111 and the stand-alone cost approach adopted in *Coal Rate Guidelines—Nationwide*, Ex Parte No. 347 (Sub-No. 1), 1 I.C.C. 2d 520 (1985);

(3) after due hearing and investigation, find that the Defendants' common carrier rates applicable to the transportation of the commodities and movements in Exhibits A and B of this Second Amended Complaint are unreasonable;

(4) prescribe just and reasonable rates and related rules and service terms for the future applicable to the rail transportation of the TPI traffic in Exhibits A and B, pursuant to 49 USC §§ 10704(a)(1) and 11701(a);

(5) award TPI reparations, plus applicable interest, in accordance with 49 USC § 11704 for unlawful rates set by Defendants for the period beginning July 1, 2010 to the effective date of a decision by the Board prescribing just and reasonable rates; and

(6) grant such other and further relief to TPI as the Board may deem just and proper under the circumstances.

Respectfully submitted,



Jeffrey O. Moreno
David E. Benz
Thompson Hine LLP
1920 N Street, N.W., Suite 800
Washington, D.C. 20036
(202) 331-8800

October 4, 2010

CSX LOCAL MOVES

Origin		Destination		Route (5)	Commodity Description (6)	STCC (7)	CSXT Rate		R/V C Ratio (11)	
City (1)	ST (2)	City (3)	ST (4)				1Q10 (8)	FSC @ \$0.20 1Q10 (9)		Incl. FSC 1Q10 (10)
1. RELOCATED TO EXHIBIT B, LANE #116										
2. CLINTON		IN		CSXT	Polypropylene	2821139	\$2,725	\$1	\$2,726	536%
3. RELOCATED TO EXHIBIT B, LANE #117										
4. RELOCATED TO EXHIBIT B, LANE #118										
5. RELOCATED TO EXHIBIT B, LANE #119										

CSX JOINT MOVES

Origin		Destination		Route (5)	Commodity Description (6)	STCC (7)	CSXT Rate		FSC @ \$0.20		CSXT Rate		Incl. FSC	R/V C Ratio (11)
City (1)	ST (2)	City (3)	ST (4)				LOI9 (8)		LOI9 (9)		LOI9 (10)			
1. MEMPHIS	TN	SOCIAL CIRCLE	GA	BNSF MEMPH CSXT SOCIR GRWR	Polypropylene	2821139	\$5,349		\$114		\$5,463			433%
2. MEMPHIS	TN	EVANSVILLE	IN	BNSF MEMPH CSXT	Polypropylene	2821139	\$4,786		\$79		\$4,865			437%
3. NEW ORLEANS	LA	COVINGTON	GA	CN NEWOR CSXT	Polystyrene	2821140	\$5,841		\$107		\$5,948			426%
4. CHICAGO	IL	CLINTON	IN	BNSF CHGO CSXT	Polypropylene	2821139	\$8,682		\$34		\$3,716			568%
5. NEW ORLEANS	LA	AMPTHILL	VA	BNSF NEWOR CSXT	Polyethylene HD	2821142	\$8,884		\$217		\$9,101			362%
6. MEMPHIS	TN	BOWLING GREEN	KY	BNSF MEMPH CSXT	Polypropylene	2821139	\$4,959		\$62		\$5,021			534%
7. NEW ORLEANS	LA	CONYERS	GA	CN NEWOR CSXT	Polystyrene	2821140	\$5,841		\$105		\$5,946			433%
8. NEW ORLEANS	LA	WASHINGTON	GA	BNSF NEWOR CSXT BRNET GWRC	Polypropylene	2821139	\$7,807		\$125		\$7,932			491%
9. NEW ORLEANS	LA	ATHENS	GA	BNSF NEWOR CSXT	Polypropylene	2821139	\$5,841		\$113		\$5,954			409%
10. MEMPHIS	TN	OLD HICKORY	TN	BNSF MEMPH CSXT VINHI NERR	Polypropylene	2821139	\$5,155		\$51		\$5,206			600%
11. NEW ORLEANS	LA	HOPE HULL	AL	CN NEWOR CSXT	Polystyrene	2821140	\$4,238		\$62		\$4,300			456%
12. NEW ORLEANS	LA	SARASOTA	FL	BNSF NEWOR CSXT ONECO SGLR	Polypropylene	2821139	\$8,306		\$166		\$8,472			418%
13. MEMPHIS	TN	GLASGOW	KY	CN MEMPH CSXT	Polystyrene	2821140	\$4,959		\$68		\$5,027			499%
14. NEW ORLEANS	LA	WINCHESTER	VA	CN NEWOR CSXT	Polystyrene	2821140	\$9,033		\$259		\$9,292			317%
15. CHICAGO	IL	ORANGEBURG	NY	BNSF CHGO CSXT	Polyethylene HD	2821142	\$7,346		\$186		\$7,532			343%
16. NEW ORLEANS	LA	GALLOWAY	FL	CN NEWOR CSXT	Aromatics (Styrene)	2818342	\$6,819		\$152		\$6,971			363%
17. CHICAGO	IL	ANDERSON	IN	BNSF CHGO CSXT	Polypropylene	2821139	\$3,837		\$47		\$3,884			490%
18. CHICAGO	IL	CINCINNATI	OH	BNSF CHGO CSXT	Polyethylene HD	2821142	\$4,489		\$75		\$4,564			427%
19. MEMPHIS	TN	EVANSVILLE	IN	CN MEMPH CSXT	Polystyrene	2821140	\$4,786		\$79		\$4,865			437%
20. CHICAGO	IL	CUMBERLAND	MD	BNSF CHGO CSXT	Polypropylene	2821139	\$6,362		\$123		\$6,485			415%
21. NEW ORLEANS	LA	HAMLET	NC	BNSF NEWOR CSXT	Polypropylene	2821139	\$6,558		\$163		\$6,721			342%
22. CHICAGO	IL	MENTOR	OH	BNSF CHGO CSXT	Polypropylene	2821139	\$4,843		\$72		\$4,915			473%
23. NEW ORLEANS	LA	NORTH COVE	NC	BNSF NEWOR CSXT	Polyethylene HD	2821142	\$7,294		\$156		\$7,450			394%
24. REMOVED														
25. MEMPHIS	TN	CLARKSVILLE	TN	CN MEMPH CSXT GUTHR RUCM	Polystyrene	2821140	\$6,059		\$60		\$6,119			637%
26. NEW ORLEANS	LA	BEECH ISLAND	SC	CN NEWOR CSXT	Polystyrene	2821140	\$6,864		\$142		\$7,006			401%
27. REMOVED														
28. NEW ORLEANS	LA	SOCIAL CIRCLE	GA	BNSF NEWOR CSXT SOCIR GRWR	Polypropylene	2821139	\$5,841		\$109		\$5,950			492%
29. MEMPHIS	TN	PIQUA	OH	CN MEMPH CSXT	Polystyrene	2821140	\$6,255		\$124		\$6,379			406%
30. EAST ST. LOUIS	IL	PAINESVILLE	OH	UP ESTL CSXT	Aromatics	2911315	\$3,590		\$114		\$3,704			231%
31. NEW ORLEANS	LA	MONROE	NC	BNSF NEWOR CSXT	Polypropylene	2821139	\$8,239		\$152		\$8,391			452%
32. EFFINGHAM	IL	TERRE HAUTE	IN	CN EFHAM CSXT	Polystyrene	2821140	\$3,571		\$14		\$3,585			789%
33. CHICAGO	IL	TERRE HAUTE	IN	BNSF CHGO CSXT	Polyethylene HD	2821142	\$3,682		\$36		\$3,718			544%
34. CHICAGO	IL	UTICA	NY	BNSF CHGO CSXT UTICA MHWA	Polypropylene	2821139	\$7,607		\$144		\$7,751			433%
35. NEW ORLEANS	LA	CARTERSVILLE	GA	BNSF NEWOR CSXT	Polypropylene	2821139	\$5,841		\$108		\$5,949			421%
36. NEW ORLEANS	LA	STANLEY	NC	BNSF NEWOR CSXT	Polypropylene	2821139	\$8,239		\$161		\$8,400			433%
37. NEW ORLEANS	LA	SIMPSONVILLE	SC	BNSF NEWOR CSXT LAURN CPDR	Polypropylene	2821139	\$7,930		\$139		\$8,069			459%
38. NEW ORLEANS	LA	DELAND	FL	BNSF NEWOR CSXT	Polypropylene	2821139	\$7,411		\$145		\$7,556			423%
39. NEW ORLEANS	LA	LAWRENCEVILLE	GA	BNSF NEWOR CSXT	Polyethylene HD	2821142	\$5,841		\$105		\$5,946			431%
40. REMOVED														
41. REMOVED														
42. EFFINGHAM	IL	WARMINSTER	PA	CN EFHAM CSXT IVYLD NHRR	Polystyrene	2821140	\$9,345		\$203		\$9,548			399%

Origin		Destination		Route (5)	Commodity Description (6)	STCC (7)	CSXT Rate		FSC @ \$0.20		CSXT Rate	
City (1)	ST (2)	City (3)	ST (4)				1Q10 (8)	1Q10 (9)	1Q10 (10)	R/C Ratio (11)		
43. NEW ORLEANS	LA	COVINGTON	GA	BNSF NEWOR CSXT	Polypropylene	2821139	\$5,841	\$107	\$5,948		426%	
44. REMOVED	LA	HOLLYWOOD	FL	BNSF NEWOR CSXT	Polypropylene	2821139	\$7,455	\$197	\$7,652		332%	
45. NEW ORLEANS	LA	LAKELAND	FL	CN NEWOR CSXT	Polystyrene	2821140	\$7,680	\$155	\$7,835		417%	
46. REMOVED	LA											
47. REMOVED	LA	ACKERMAN	GA	BNSF NEWOR CSXT	Polypropylene	2821139	\$5,841	\$97	\$5,938		460%	
48. NEW ORLEANS	IL	WESTBORO	MA	BNSF CHGO CSXT	Polyethylene HD	2821142	\$8,657	\$197	\$8,854		384%	
49. CHICAGO												
50. REMOVED	TN	GALLAWAY	TN	CN MEMPH CSXT	Polystyrene	2821140	\$4,340	\$6	\$4,346		1158%	
51. MEMPHIS	TN	JASPER	TN	CN MEMPH CSXT BRDGL SQVR	Polystyrene	2821140	\$5,950	\$73	\$6,023		549%	
52. MEMPHIS	TN	NASHVILLE	TN	BNSF MEMPH CSXT	Polyethylene HD	2821142	\$4,959	\$46	\$5,005		638%	
53. MEMPHIS	LA	LAGRANGE	GA	BNSF NEWOR CSXT	Polypropylene	2821139	\$5,391	\$85	\$5,476		467%	
54. NEW ORLEANS	LA	ANSLEY	MS	CN NEWOR CSXT	Polystyrene	2821140	\$5,447	\$9	\$5,456		1338%	
55. NEW ORLEANS	IL	TERRE HAUTE	IN	BNSF CHGO CSXT	Polypropylene	2821139	\$3,682	\$36	\$3,718		544%	
56. CHICAGO	TN	HOPKINSVILLE	KY	BNSF MEMPH CSXT	Polyethylene HD	2821142	\$4,959	\$62	\$5,021		534%	
57. MEMPHIS	LA	ORLANDO	FL	BNSF NEWOR CSXT	Polyethylene HD	2821142	\$7,411	\$152	\$7,563		408%	
58. NEW ORLEANS	LA	AUGUSTA	KY	BNSF NEWOR CSXT	Polypropylene	2821139	\$7,612	\$192	\$7,804		346%	
59. NEW ORLEANS	LA	BALTIMORE	MD	BNSF NEWOR CSXT	Polyethylene HD	2821142	\$9,419	\$250	\$9,669		340%	
60. NEW ORLEANS	IL	UTICA	NY	BNSF CHGO CSXT	Polyethylene HD	2821142	\$7,607	\$144	\$7,751		433%	
61. CHICAGO	IL	CLARKSBURG	WV	BNSF CHGO CSXT	Polypropylene	2821139	\$6,196	\$127	\$6,323		395%	
62. CHICAGO	TN	MADISONVILLE	KY	BNSF MEMPH CSXT	Polypropylene	2821139	\$4,786	\$69	\$4,855		479%	
63. MEMPHIS	LA	ATLANTA	GA	UP NEWOR CSXT	Aromatics	2911315	\$5,588	\$100	\$5,688		416%	
64. NEW ORLEANS												
65. REMOVED	LA	WARESBORO	GA	BNSF NEWOR CSXT WARCO SMW	Polypropylene	2821139	\$6,840	\$136	\$6,976		405%	
66. NEW ORLEANS	IL	AKRON	OH	BNSF CHGO CSXT	Polypropylene	2821139	\$4,843	\$69	\$4,912		476%	
67. CHICAGO												
68. REMOVED	TN	GALLAWAY	TN	BNSF MEMPH CSXT	Polypropylene	2821139	\$4,340	\$6	\$4,346		1158%	
69. MEMPHIS	LA	CHATTANOO	TN	BNSF NEWOR CSXT	Polypropylene	2821139	\$5,681	\$126	\$5,807		365%	
70. NEW ORLEANS	LA	ETON	GA	BNSF NEWOR CSXT	Polypropylene	2821139	\$5,681	\$118	\$5,799		384%	
71. NEW ORLEANS	LA	TYNER	TN	BNSF NEWOR CSXT	Polypropylene	2821139	\$5,681	\$128	\$5,809		360%	
72. NEW ORLEANS												
73. REMOVED	TN	LEBANON	TN	BNSF MEMPH CSXT VINH NERR	Polyethylene HD	2821142	\$5,456	\$54	\$5,510		612%	
74. MEMPHIS	TN	JACKSON	TN	BNSF MEMPH CSXT	Polypropylene	2821139	\$4,340	\$24	\$4,364		786%	
75. MEMPHIS	TN	LEWISBURG	TN	BNSF MEMPH CSXT	Polypropylene	2821139	\$4,959	\$57	\$5,016		563%	
76. MEMPHIS	LA	EVERGREEN	AL	BNSF NEWOR CSXT	Polyethylene HD	2821142	\$3,069	\$48	\$3,117		389%	
77. NEW ORLEANS	LA	HELENA	AL	BNSF NEWOR CSXT	Polypropylene	2821139	\$5,080	\$80	\$5,160		459%	
78. NEW ORLEANS	LA	NEWNAN	GA	BNSF NEWOR CSXT	Polypropylene	2821139	\$5,841	\$91	\$5,932		479%	
79. NEW ORLEANS	LA	PETERSBUR	WV	BNSF NEWOR CSXT	Polypropylene	2821139	\$9,241	\$279	\$9,520		299%	
80. NEW ORLEANS	IL	INDIANAPLIS	IN	BNSF NEWOR CSXT GRESP SBVR	Polypropylene	2821140	\$3,939	\$39	\$3,978		558%	
81. CHICAGO	IL	LIVONIA	MI	CN CHGO CSXT	Polystyrene	2821142	\$5,432	\$62	\$5,494		583%	
82. CHICAGO	IL	LOCKPORT	NY	BNSF CHGO CSXT	Polyethylene HD	2821139	\$6,261	\$111	\$6,372		444%	
83. CHICAGO	IL	WAPAKONET	OH	BNSF CHGO CSXT	Polypropylene	2821139	\$3,970	\$51	\$4,021		484%	

CSX JOINT MOVES

Origin		Destination		Route (5)	Commodity Description (6)	CSXT Rate		FSC @ \$0.20		CSXT Rate	
City (1)	ST (2)	City (3)	ST (4)			1Q10 (8)	1Q10 (9)	1Q10 (10)	R/V C Ratio (11)		
85. REMOVED											
86. NEW ORLEANS	LA	THOMSON	GA	BNSF NEWOR CSXT	Polyethylene HD	2821142	\$6,864	\$125	\$6,989	442%	
87. NEW ORLEANS	LA	TARBORO	NC	BNSF NEWOR CSXT	Polyethylene HD	2821142	\$8,370	\$197	\$8,567	372%	
88. REMOVED											
89. MEMPHIS	TN	HORSE CAVE	KY	CN MEMPH CSXT	Polystyrene	2821140	\$5,252	\$68	\$5,320	529%	
90. REMOVED											
91. NEW ORLEANS	LA	MATTHEWS	NC	BNSF NEWOR CSXT	Polyethylene HD	2821142	\$8,239	\$155	\$8,394	446%	
92. REMOVED											
93. CHICAGO	IL	NORTH VERNON	IN	BNSF CHGO CSXT NVERN CMPA	Polyethylene HD	2821142	\$4,684	\$71	\$4,755	450%	
94. NEW ORLEANS	LA	PENDERGRASS	GA	BNSF NEWOR CSXT	Polypropylene	2821139	\$5,841	\$117	\$5,958	397%	
95. REMOVED											
96. CHICAGO	IL	FRANCESVILLE	IN	BNSF CHGO CSXT	Polyethylene HD	2821142	\$4,123	\$20	\$4,143	805%	
97. NEW ORLEANS	LA	JEFFERSON	GA	CN NEWOR CSXT	Polystyrene	2821140	\$5,841	\$116	\$5,957	401%	
98. NEW ORLEANS	LA	JEFFERSON	GA	BNSF NEWOR CSXT	Polypropylene	2821139	\$5,841	\$116	\$5,957	401%	
99. EFFINGHAM	IL	MAMARONEC	NY	CN EFFHAM CSXT	Polystyrene	2821140	\$8,075	\$211	\$8,286	338%	
100. MEMPHIS	TN	GALLAWAY	TN	BNSF MEMPH CSXT	Polyethylene HD	2821142	\$4,340	\$6	\$4,346	1158%	
101. MEMPHIS	TN	GLASGOW	KY	BNSF MEMPH CSXT	Polypropylene	2821139	\$4,959	\$68	\$5,027	499%	
102. NEW ORLEANS	LA	ACKERMAN	GA	BNSF NEWOR CSXT	Polyethylene HD	2821142	\$5,841	\$97	\$5,938	460%	
103. NEW ORLEANS	LA	BEECH ISLAND	SC	BNSF NEWOR CSXT	Polypropylene	2821139	\$6,864	\$142	\$7,006	401%	
104. NEW ORLEANS	LA	DE LAND	FL	BNSF NEWOR CSXT	Polyethylene HD	2821142	\$7,411	\$145	\$7,556	423%	
105. NEW ORLEANS	LA	HAMLET	NC	BNSF NEWOR CSXT	Polyethylene HD	2821142	\$6,558	\$163	\$6,721	342%	
106. NEW ORLEANS	LA	HAMLET	NC	CN NEWOR CSXT	Polystyrene	2821140	\$6,558	\$163	\$6,721	342%	
107. REMOVED											
108. CHICAGO	IL	AKRON	OH	BNSF CHGO CSXT	Polyethylene HD	2821142	\$4,843	\$69	\$4,912	485%	
109. CHICAGO	IL	LIMA	OH	BNSF CHGO CSXT	Polyethylene HD	2821142	\$3,970	\$48	\$4,018	500%	
110. CHICAGO	IL	LIMA	OH	BNSF CHGO CSXT	Polypropylene	2821139	\$3,970	\$48	\$4,018	500%	
111. CHICAGO	IL	PITTSFIELD	MA	BNSF CHGO CSXT	Polypropylene	2821139	\$8,190	\$172	\$8,362	406%	
112. NEW ORLEANS	LA	DALTON	GA	BNSF NEWOR CSXT	Polypropylene	2821139	\$5,681	\$119	\$5,800	382%	
113. CHICAGO	IL	CLARKSBURG	WV	BNSF CHGO CSXT	Polyethylene HD	2821142	\$6,196	\$127	\$6,323	395%	
114. CHICAGO	IL	WESTFIELD	MA	BNSF CHGO CSXT WESTF PVRR	Polypropylene	2821139	\$8,565	\$181	\$8,746	404%	
115. CHICAGO	IL	INDIAPLIS	IN	BNSF CHGO CSXT	Polypropylene	2821139	\$3,939	\$39	\$3,978	558%	
116. SOCIAL CIRCLE	GA	COVINGTON	GA	GRWR SOCIR CSXT	Polypropylene	2821139	\$3,300	\$22	\$3,302	985%	
117. SOCIAL CIRCLE	GA	ATHENS	GA	GRWR SOCIR CSXT	Polypropylene	2821139	\$3,300	\$22	\$3,322	622%	
118. SOCIAL CIRCLE	GA	CONYERS	GA	GRWR SOCIR CSXT	Polypropylene	2821139	\$3,300	\$4	\$3,304	926%	
119. CHICAGO	IL	EVANSVILLE	IN	BRC CHGO CSXT	Polystyrene	2821140	\$4,863	\$58	\$4,921	544%	
120. NEW ORLEANS	LA	CONYERS	GA	BNSF NEWOR CSXT	Polypropylene	2821139	\$5,841	\$105	\$5,946	433%	

CERTIFICATE OF SERVICE

I hereby certify that this 4th day of October 2010, I served a copy of the foregoing Second Amended Complaint upon Defendants in the following manner and at the addresses below:

Via hand-delivery to:


G. Paul Moates
Sidley Austin LLP
1501 K Street, NW
Washington, D.C. 20005
Counsel for CSXT

Via overnight express delivery to:

Lamont Jones, General Manager Carolina Piedmont Division 268 E. Main Street Laurens, SC 29360	Cathy S. Hale, Chief Executive Officer Madison Railroad City of Madison Port Authority 1121 W. JPG Woodfill Road #216 Madison, IN 47250
Jeff Collins, General Manager Mohawk, Adirondack & Northern Railroad Corp. 1 Mill Street, Suite 101 Batavia, NY 14020	William J. Drunsic, President Nashville and Eastern Railroad Corp. 514 Knoxville Avenue Lebanon, TN 37087
Bernard M. Reagan, Senior Vice President Seminole Gulf Railway L.P. 900 W.C. Owens Avenue Clewiston, FL 33440	Lucinda K. Butler, Director South Branch Valley Railroad 120 Water Plant Drive Moorefield, WV 26836
G.R. Abernathy, President Sequatchie Valley Railroad Company 120 Soulard Square Bridgeport, AL 35740	Paul G. Nichini, President New Hope & Ivyland Railroad 32 West Bridge Street New Hope, PA 18938

Via facsimile and U.S. first-class mail to:

Joe Martin, Division Manager R.J. Corman Railroad Company (Memphis) P.O. Box 337 145 East 1st Street Guthrie, KY 42234 fax 270.483.9009	Michael L. Rennie, General Manager Pioneer Valley Railroad P.O. Box 995 Westfield, MA 01086 fax 413.568.3331
Thomas Burden, General Manager Georgia Woodlands Railroad, LLC 210 Depot Street P.O. Box 549 Washington, GA 30673 fax 706.678.2341	



Jeffrey O. Moreno